

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 20, 2013

Elisabeth A. Shumaker
Clerk of Court

JASON SEADER,

Plaintiff - Appellant,

v.

SCOTT STOREY; THOMAS M.
JACKSON; AMY RUPPECK; JOHN
DOE; JANE DOE,

Defendants - Appellees.

No. 13-1295
(D.C. No. 1:13-CV-00609-LTB)

ORDER

Before **HOLMES**, **O'BRIEN**, and **MATHESON**, Circuit Judges.

This court lacks jurisdiction over this appeal because the notice of appeal was filed out-of-time.

Judgment was entered on March 28, 2013 and the notice of appeal was filed on July 10, 2013.

In a civil case, in which the United States is not a party, a notice of appeal must be filed within 30 days of entry of the order being appealed. *See* 28 U.S.C. § 2107(a) (a notice of appeal in a civil matter must be filed within 30 days of entry of judgment); Fed. R. App. P. 4(a)(1)(A) (same). A timely notice of appeal in a civil case is both mandatory and jurisdictional. *See Bowles v. Russell*, 551 U.S. 205, 209, 213 (2007).

The plaintiff contends that he did not receive a copy of the judgment until after June 10. Only the district court, however, may reopen the time to appeal where a litigant has not received a copy of the judgment. *See* Fed. R. App. P. 4(a)(6) (the district court may reopen the time to appeal where the litigant has not received a copy of the judgment and the motion is made within 180 days of entry of the judgment or with 14 days of receiving notice of the judgment, whichever is shorter).

Because the appeal was filed more than 30 days after entry of judgment, this court lacks jurisdiction. **APPEAL DISMISSED.**

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

by: Ellen Rich Reiter
Jurisdictional Attorney